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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IN RE THE GENERAL
ADJUDICATION
OF ALL RIGHTS TO USE WATER IN
THE
GILA RIVER SYSTEM AND SOURCE

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
Consolidated

Contested Case No. W1-11-2690

ORDER FOR JOINT SETTLEMENT
REPORT FROM THE PARTIES AND
FOR REVIEW OF PROPOSED ABSTRACT
FROM ADWR

CONTESTED CASE NAME: *In re Pima County Flood Control District*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: Pima County Flood Control District shall file with the court a copy of its request to amend Application No. 4A-4914 by **June 24, 2019**. Joint Settlement Report shall be filed by the parties by **July 22, 2019**. Draft abstract for domestic use submitted to ADWR for review by **July 31, 2019**.

NUMBER OF PAGES:

DATE OF FILING: June 17, 2019

1 **Settlement Discussions**

2 Currently outstanding in this contested case are six potential water rights as follows:

3

Proposed Water Right Nos.
113-12-BA-012-IR001
113-12-BA-012-SR001
113-12-BA-013-DM001
113-12-BA-013-DM002
113-12-BA-013-IR001
113-12-BA-013-IR002

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12 On March 25, 2019, counsel for the San Carlos Apache Tribe and the Tonto Apache Tribe

13 filed a Settlement Report stating that discussions had been productive with respect to the

14 resolution of objections to the watershed file reports at issue in this case, but stated that the

15 discussions had not been concluded pending a decision in the *Luebbermann* case. The decision

16 in *In re Luebberman* was filed on April 24, 2019. Accordingly, it appropriate for the parties to

17 file a settlement report that includes drafts of proposed abstracts for which the parties have

18 reached agreement.

19

20

21 **Watershed File Report No. 113-12-BA-013**

22 On March 4, 2019, proceedings were initiated in this consolidated case to resolve the

23 objections to Watershed File Report No. 113-12-BA-013 (WFR). The WFR found one

24 potential water right for domestic use located in section 15 T11S R18E and three potential water

25 rights for domestic and irrigation use in section 26 T11S R18E. The Pima County Flood

26 Control District makes no claim to the former and focuses its claims on the latter.

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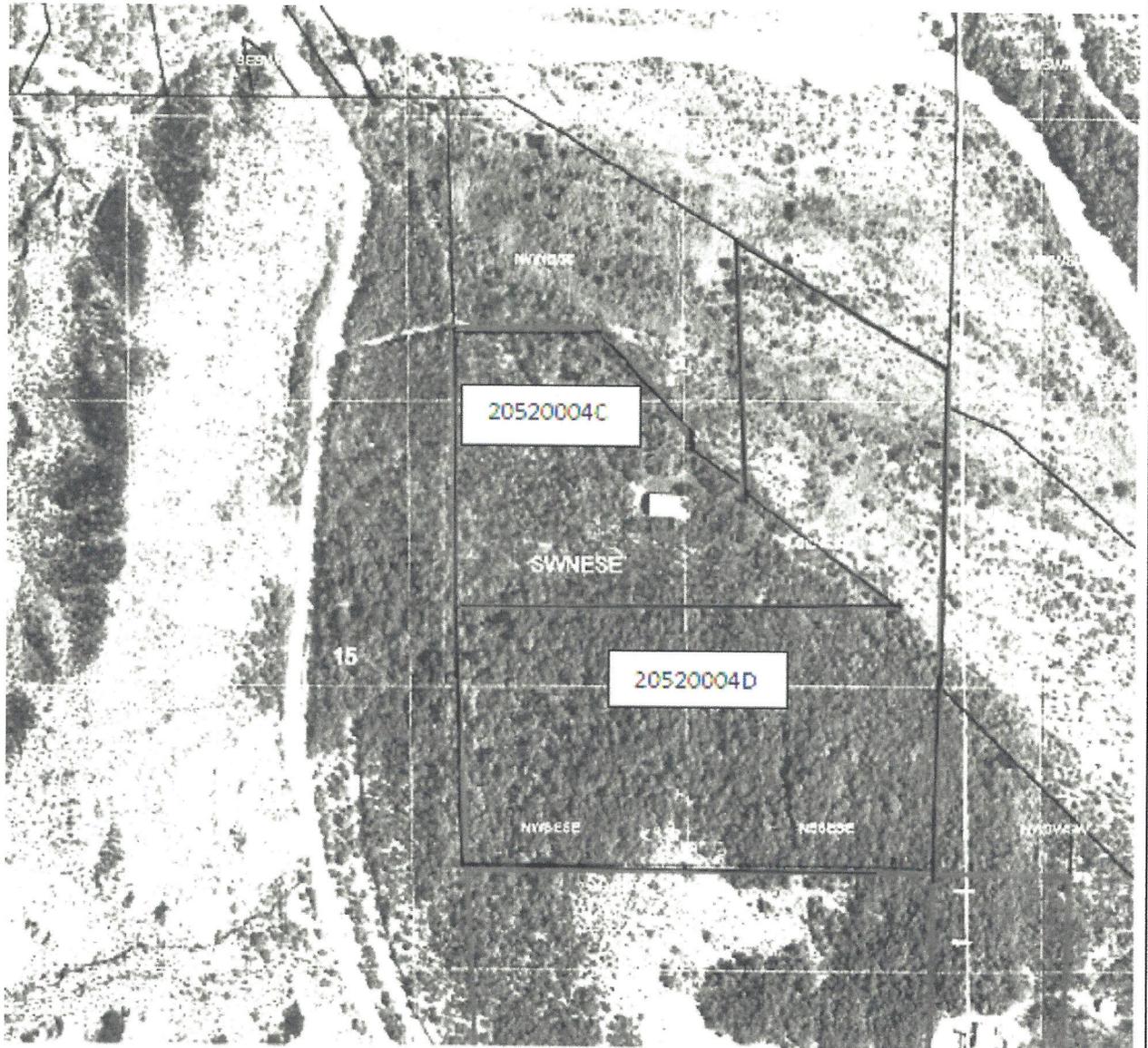
1 A. Section 15 T11S R18E

2 On February 29, 1980, the Floyd and Lavita Bingham Family Trust filed Statement of
3 Claimant 39-2765 for a stock watering use listing a well in the SENWSE Section 15 T11S R18E
4 as the source of water. Arizona Department of Water Resources did not find a potential water
5 right for stock watering based on Statement of Claimant 39-2765. In the WFR, it determined that
6 Statement of Claimant 39-2765 was the applicable adjudication filing for a domestic water use in
7 the SWNESW section 15 T11S R18E.
8

9 Arizona Department of Water Resources subsequently conducted an historical review of
10 the potential water right for domestic use in section 15 T11S R18E. It concluded that at the time
11 of the original investigation there were no potential domestic uses in NESW Section 15 T11S
12 R18E. *Arizona Department of Water Resources' Notice of Filing Report and Map*, filed April 29,
13 2019 ("Notice"). The investigators at ADWR located the original mylar overlays for the area and
14 determined that place of use for the potential domestic water right is in the SWNESE section 15
15 T11S R18E. Notice at 1. They also noted the presence of a residential structure in tax parcel
16 205-20-004C which is within SWNESE Section 15.
17

18 According to Pima County Recorder's Office, Tucson Faith Christian Church owns tax
19 parcel 205-20-004C and the District owns tax parcel 205-20-004D. The District makes no claim
20 to a water right pursuant to Statement of Claimant 39-2765 or to a right for water in Section 15
21 T11S R18E. The Statement of Claimant 39-2765 has not been assigned based on ADWR's
22 records that are publicly available. On November 25, 2014, Tucson Faith Christian Church filed
23 Statement of Claimant 39-17799 claiming an irrigation use with a priority date of January 17,
24 2014. Statement of Claimant 39-17799 for an irrigation use will not be considered in this case
25 because the claimed priority date occurred after the date that Arizona Department of Water
26 Resources completed the San Pedro Hydrographic Survey Report. Tucson Faith Christian
27
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1 Church will, however, be added to the Court-approved mailing list in this case because it owns
2 land that was included in the WFR. A copy of the map prepared by ADWR annotated with the
3 tax parcel numbers is shown in *figure 1*.



23 **Figure 1.**

24
25 **B. Section 26 R11S T18E**

26 The District states that its claims for water rights included in the WFR are based on
27 Statement of Claim 36-27655, as amended, and Statement of Claimant 39-2764, as amended. It
28

1 prepared a draft form of abstract for a domestic water right in Section 26, which is attached as
2 Appendix A.

3 Based on the foregoing,

4 **IT IS ORDERED** that Pima County Flood Control District shall file with the court a copy
5 of its request to amend Application No. 4A-4914 by **June 24, 2019**
6

7 **IT IS FURTHER ORDERED** that Tucson Faith Christian Church shall be added to the
8 Court-approved mailing list.

9 **IT IS FURTHER ORDERED** that the parties shall file a joint settlement report by **July**
10 **22, 2019**.

11 **IT IS FURTHER ORDERED** that by **July 31, 2019**, ADWR shall review the place of
12 use and point of diversion and file a report regarding the place of use and point of diversion
13 described on the attached abstract.
14

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18 _____
19 Susan Ward Harris
20 Special Master

21 The original of the foregoing was delivered to the Clerk
22 of the Maricopa County Superior Court on June 17,
23 2019, for filing and distributing a copy to all persons
24 listed on the Court approved mailing list for this
25 Contested Case.
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APPENDIX A

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Abstract of Water Right San Pedro Watershed

1. Proposed Water Right No:	113-12-BA-013-DM002
2. Owner of Water Right:	Pima County Regional Flood Control District
3. Landowner:	Pima County Regional Flood Control District
4. Statement of Claimant No.(s):	39-2764
5. Statement of Claimant Name(s):	Pima County Regional Flood Control District
6. Lessee or Permittee:	Jack Kelly and Lois Kelly (Life Estate)
7. Basis of Right:	36-27655 55-624855
8. Beneficial Use:	Domestic
9. Priority Date:	3/6/1880
10. Quantity:	Not to exceed 1 acre-foot per year (<i>de minimis</i>) Maximum pump capacity: 20 gallons per minute
11. Place of Use*:	NENWNW 26 T11S R18E
12. Points of Diversion*:	NENWNW 26 T11S R18E
13. Source of Water:	San Pedro River
14. Name of Facility:	Kelly Well (or Markham Well)